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September 26, 2019

VIA, ELECTRONIC FILING

The Honorable Jocelyn Boyd
Chief Clerk and Administrator
The Public Service Commission of South Carolina
101 Executive Center Drive
Columbia, South Carolina 29210

- Re: • Docket 2019-209-E
 • Comments and Request for a Definite Time Frame for Participation in a
 Proceeding on §58-41-30, by the South Carolina Solar Business Alliance, Inc.
 (“SCSBA”)

Ms. Boyd:

Please reference the September 13, 2019, filing by Dominion Energy South Carolina, Incorporated, (“DESC”), which referenced S.C. Code Ann. §58-41-30, Voluntary Renewable Energy Program, (“VRE Program”).

DESC’s filing admits that S.C. Code Ann. §58-41-30, provides for this Commission to conduct a “Proceeding” to establish reasonable terms and conditions for the VRE Program. DESC then attempts to parse the requirement for a Proceeding in a manner inconsistent with broad participation by interested parties. Namely, DESC argues that:

“DESC respectfully requests that the Commission notice DESC’s request for authorization to implement this Rider on its public docket and issue the requested authorization at its earliest convenience based on the record before it.”

During this Commission’s consideration of the Provisions of Act 62, more than one Commissioner has publicly opined that transparency was one of the paramount goals of this Commission in the implementation of Act 62. DESC’s position does not support transparency. Specifically, S.C. Code Ann. §58-41-30 requires, “The commission shall conduct a proceeding to review the program and establish reasonable terms and conditions for the program. **Interested parties shall have the right to participate in the proceeding.**” (Emphasis supplied).

DESC cites S.C. Code Ann. § 58-27-870(F) to support its request that the Commission approve the proposed VRE Program without notice and hearing. However, this general provision in a different Chapter of the South Carolina Code does not supersede the specific requirement established by the General Assembly in S.C. Code Ann. §58-41-30(A) that “[i]nterested parties shall have the right to participate in the proceeding.”

DESC also cites the S.C. Code Ann. Reg. 103-804(Q) definition of “Proceeding” to support its request that the Commission approve the DESC VRE program without input from interested stakeholders. That definition is:

“The general process of the Commission’s determination of the relevant facts and the applicable law, the consideration thereof and the action thereupon in regard to a particular subject matter within the Commission’s jurisdiction, initiated by the filing of an appropriate pleading or issuance of a Commission order or rule to show cause.”

Contrary to DESC’s interpretation of this definition, however, in order for the Commission to consider the relevant facts and applicable law, S.C. Code Ann. §58-41-30 requires that interested parties have the opportunity to participate in the proceeding and submit evidence in the record including relevant facts and applicable law. Similar to DESC’s improper reliance on S.C. Code Ann. § 58-27-870(F), the “general process” identified in the S.C. Code Ann. Reg. 103-804(Q) definition of “Proceeding” must cede to the specific provisions and requirements of S.C. Code Ann. §58-41-30.

In addition to the concerns outlined above by SCSBA and in furtherance of the need for this Commission to establish a procedural schedule that allows for input from interested parties, the SCSBA calls attention to a clear example of the current problems with the DESC proposal: The proposed VRE Rider would allow the Company to act as a supplier of renewable energy (“Company as Supplier”), which is prohibited by the statute.

When allowed to participate and comment on DESC’s proposal, SCSBA will outline further inconsistencies between DESC’s proposal and S.C. Code Ann. §58-41-30, as well as opportunities to improve the VRE Rider that are consistent with the requirements and goals of Act 62.

Based on the foregoing, including a fair reading of S.C. Code Ann. §58-41-30, and in the interest of transparency and fulfilling the intent of the General Assembly, this Commission should conduct a proceeding and declare a definite time frame for participation in that proceeding by interested parties.

Please make the Chairman and other Commissioners aware of SCSBA's Comments and Request for a definite time frame for participation in a Proceeding on S.C. Code Ann. §58-41-30.

Respectfully submitted this 26th day of September, 2019.

WHITT LAW FIRM, LLC

/s/Richard L. Whitt
Richard L. Whitt,
As Counsel for the South Carolina Solar
Business Alliance, Inc.

RLW/cas

cc: All parties of Record in Docket 2019-209-E, *via electronic mail*